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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SEP 27 2006

JAMES R. LARSEN, CLERK
DEPUTY
YAKIMA, WASHINGTON

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 RED 1 INVESTMENTS, INC.,

11 Plaintiff,

12 v.

13 AMPHION INTERNATIONAL LTD.,
14 AMPHION INTERNATIONAL INC.,

15 Defendants.

NO. CV-06-279-LRS

TEMPORARY
RESTRAINING ORDER

16 THIS CAUSE was heard on Plaintiff's verified complaint and its motion for
17 a temporary restraining order with attached affidavits. It appears to the Court that
18 Defendants are and will continue to interfere with Plaintiff's security interest as set
19 forth in Plaintiff's complaint and affidavits and have been and will continue to
20 carry out such acts unless restrained by order of this Court.

21 It further appears, if notice of motion was required or given to Defendant or
22 Defendant's attorney, that immediate and irreparable injury, loss, and damage will
23 result to Plaintiff, and before a hearing can be had on Plaintiff's motion for a
24 temporary restraining order, or preliminary injunction, and before Defendants or
25 Defendants' attorney can be heard in opposition.
26

TEMPORARY RESTRAINING ORDER: 1

LAW OFFICES OF
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A PROFESSIONAL SERVICE CORPORATION
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1 The Court finds that: immediate and irreparable injury, loss or damage will
2 result to Plaintiff before the adverse parties or their counsel can be heard because:

3 1. Defendants have previously moved the property subject to this order
4 on multiple occasions without notice to Plaintiff, and there is a genuine fear that
5 the property may be moved again without notice.
6

7 2. The property is the primary tangible asset of the Defendants upon
8 which the Defendant companies exist and upon which Plaintiff's security interest is
9 based.

10 3. The defendant Amphion International, Ltd is governed by a three
11 member Board of Directors and the Chairman and Managing Director is in
12 substantial fear that the property will be secreted, lost or destroyed if notice of the
13 motion for temporary restraining order is provided.
14

15 4. Amphion International, Ltd.'s primary shareholder, John Gill, is
16 believed to have been convicted of a felony involving racketeering charges in
17 another court, and is continuing to control the property at a location he controls,
18 despite the fact that he is no longer an officer or director of Amphion International,
19 Ltd.
20

21 5. If the property is secreted, lost or destroyed before it is seized by
22 Plaintiff, the ability of Plaintiff to collect on the substantial debt claimed owed by
23 Defendants will be severely jeopardized. Without possession of the prototypes
24 embodying the technology subject to U.S. Patents held by Amphion Limited, as
25
26

1 well as the written technical data related thereto, the value of the patents is severely
2 diminished.

3 6. It further appears that Plaintiff's attorney certified to the Court in ~~Ct~~
4 *Recs. 1-6* the reasons supporting plaintiff's claim that notice should not be required.

5 The Court further finds that there is a likelihood that the Plaintiff will prevail
6 on its claims at trial. Defendants acknowledge they are in arrears on the payments
7 required under the Promissory Note at issue, and they acknowledge the Security
8 Agreement upon which Plaintiff's remedies in this case are based.

9 The Court further finds that the balance of harm to the parties weighs in
10 favor of the motion for temporary restraining order be granted, particularly as the
11 property subject to this order, will only be stored pending further order of this
12 Court. Further, the public interest is served in granting relief in this case.

13 IT IS ORDERED, therefore, that:

14 1. Defendants, Defendants' agents, employees, and all other persons,
15 firms, or corporations acting or claiming to act in Defendants' behalf, or in concert
16 or participation with Defendants, and any other individual or entity duly served
17 with a copy of this order, are hereby restrained from interfering with the plaintiff's
18 security interest.

19 2. It is further ordered that Red 1 Investments, Inc. may do the
20 following:

21 a. Undertake entry into the facilities leased by the defendant
22 located at 3305 Victory Drive, Columbus, Georgia.

23 TEMPORARY RESTRAINING ORDER: 3

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1 b. Take immediate possession of certain collateral, as described in
2 the Security Agreement between the parties dated March 1, 2004, including,
3 but not limited to: (1) physical prototypes embodying technology subject to
4 the defendant's U.S. Patents; (2) hard copy files, computer storage media,
5 and physical computers containing electronic files of various mechanical
6 drawings, electronic schematics, chemical formulae, patent data, and
7 information; and other technical drawings associated with intellectual
8 property owned by the defendant; (3) items of equipment and inventory for
9 constructing devices embodying the defendant's intellectual property; and
10 (4) items containing information related to the United States business
11 operations, including its accounts and customers.
12

13
14 c. To undertake transport of such collateral by Security Storage
15 and Moving, an agent of North American Van Lines, to its bonded
16 warehouse located at 4531 Milgen Rd., Columbus, Georgia, where such
17 collateral shall be stored pending transport to Spokane, Washington.
18

19 d. To undertake transport of such collateral via agents of North
20 American Van Lines, American Van Service, Inc.'s, to its bonded
21 warehouse located at American Van Service, Inc., 707 W. Geiger Blvd.,
22 Spokane, Washington, at which location the collateral shall remain stored
23 pending judgment or such other further order of the Court.
24

25 Provided that Plaintiff, or Plaintiff's agent, first file an undertaking with
26 surety, or cash in lieu of a bond, in the sum of \$ 1,000 for payment of such


1 costs and damages as may be incurred or suffered by any party who may be found
2 to be wrongfully restrained or enjoined, such security to be approved by the Court.

3 3. This order shall expire October 10, at 11 p.m. unless
4 within such time this order for good cause shown is extended for a longer period.
5

6 4. Plaintiff shall file and serve a motion for preliminary injunction is set
7 down for hearing on October 10, at 4:00 p.m. in Spokane, Washington.

8 5. Copies of this order and Plaintiff's complaint and attached affidavits,
9 together with summons, shall be immediately served upon Defendants after
10 Plaintiff takes possession of the above-referenced collateral.

11 DATED this 27th day of September, 2006.

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15 United States District Judge
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